



STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

March 31, 1980

Administrative Letter 1980-2

TO: All Companies Licensed to Write
Homeowners Insurance in Virginia

Section 38.1-335.2 of the Code of Virginia provides that "any insurer who issues or delivers a Homeowners Insurance Policy in the Commonwealth shall offer as an option a provision insuring against loss caused or resulting from water which backs up through sewers or drains." (emphasis added)

It appears that some companies have interpreted this statute to mean that this coverage merely has to be available in case anyone asks for it. This is not the Bureau's interpretation.

The purpose of this letter is to inform each company licensed to write homeowners insurance in Virginia that Section 38.1-335.2 requires a positive offer or notice of coverage for loss from water which backs up through sewers or drains. Insurers have flexibility as to the manner in which the offer or notice is given. For example, a "stuffer" may be used at the time an application or policy is mailed to an insured. Also, the offer or notice may be given on the application itself so long as it is prominently displayed. Whatever the means, the notice or offer must not be ambiguous or obscure and must be given no later than at the time the policy is delivered.

Also, it appears that companies have not uniformly interpreted Section 38.1-335.2 regarding how often the offer or notice must be given. Some companies have been giving a notice only when a policy is delivered initially. These companies have not been giving a notice on renewal. Other companies have been giving a notice both at the time a policy is initially delivered and on renewal. While the statute is not as clear as it could be in this respect, the Bureau's interpretation is that the offer or

notice required by Section 38.1-335.2 must be given at the time a homeowners policy is renewed as well as at the time a policy is initially delivered.

I have attached two example notices similar to ones being used in Virginia. These examples may be of help in determining the kind of notice or offer that a company should use to comply with Section 38.1-335.2.

Please make certain that your company is in compliance with Section 38.1-335.2. Future market conduct examination by the Bureau will include a determination of whether companies are complying with this statute.

Sincerely,

James W. Newman, Jr.

Commissioner of Insurance

JWNjr:dj
Attachments

Example 1

SEWER BACK-UP COVERAGE

XYZ Company is offering an optional Sewer Back-Up Coverage on its Virginia Homeowners and Tenants policies. It provides protection against damage from water which backs up through sewers and drains.

If you desire to carry this coverage, please check the appropriate block to indicate the deductible you desire and print your name below, sign and return this form to XYZ Company in the enclosed envelope.

- Please add Sewer Back-Up Coverage with a \$50 deductible.
The additional premium is \$_ a year.
- Please add Sewer Back-Up Coverage with a \$100 deductible.
The additional premium is \$_ a year.
- Please add Sewer Back-Up Coverage with a \$250 deductible.
The additional premium is \$_ a year.

_____	_____	_____	_____
(Name)	(Signature)	(Policy Number) (If Known)	(Date)

Example 2

SEWER AND DRAIN
BACKUP COVERAGE CAN
NOW BE ADDED TO
YOUR

(Insert Company Name)

HOMEOWNERS POLICY

See Your Agent For Details

(Insert Company Logo, etc.)